

Application No. 10/800,746
Amendment dated August 1, 2005
Reply to Office Action of May 3, 2005

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- REMARKS/ARGUMENTS -

Claims 6 to 11 are pending in the application.

Specification

The Abstract has been amended to better reflect the claimed invention. The amended Abstract is believed to overcome the Examiner's objection as well.

Claim rejections – 35 USC § 112

Claim 11 has been amended to replace the expression "a body perimeter" by the expression "a perimeter of the body", in order to overcome the Examiner's objection.

Claim rejections – 35 USC § 103

With respect to the rejection to claims 6 to 11 as being unpatentable over Berger (US 5,699,915) in view of Higgins (US 4,050,219), reconsideration by the Examiner is respectfully requested on the following grounds.

To establish obviousness, first there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations.

Berger teaches peat moss palletized in bulk compressed form and covered with a plastic film material wrapped around the outer surface of the peat moss body. As illustrated by his description of the prior art, Berger was aware of the prior use of small plastic bags to contain compressed peat moss. The fact that the material chosen by Berger to contain bulk quantities of peat moss was a plastic film wrapping teaches away from the bag disclosed in Higgins. No mention of the possibility to use bags similar to those taught by Higgins is made in Berger.

Higgins teaches a bagging machine for automatically covering a loaded pallet with a bag formed from tubing of a resilient film. In Higgins, no specification is given on the type of load used, but the Figures show the load as a straight well defined prism, suggesting rigidity (see Fig. 1, Fig. 2, Fig. 19). Moreover, if Higgins intended the load to be compressible, mention of a compression apparatus or of means for maintaining compression of the load would have been made, which is

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not the case. Thus, there is no indication in Higgins that his bagging machine could be used with compressed peat moss, as taught by Berger.

A body of palletized compressed peat moss retains its structural integrity only for a short time and can easily crumble, if not handled appropriately. As such, it is very different from a usual palletized load, which is stable and rigid. Thus, general knowledge available to one of ordinary skill in the art would not suggest using Higgins' bagging machine, seen as a bagging machine for rigid loads, with Berger's compressed palletized peat moss. One of ordinary skill in the art would likely expect that the use of Higgins' bagging machine on Berger's compressed peat moss would crumble the peat moss body before the bag would encompass it. Accordingly, there is no reasonable expectation of success for the combination of the two references.

Accordingly, the Applicants submit that the two cited references cannot be combined to reject claims 6 to 11 and as such claims 6 to 11 comply with 35 USC § 103.

The Applicants submit that no new matter has been added by the present amendments.

It is submitted, therefore, that the claims are in condition for allowance. Reconsideration of the Examiner's rejections is respectfully requested. Allowance of claims 6 to 11 at an early date is solicited.


In the event that there are any questions concerning this amendment or the application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application may be expedited.

Respectfully submitted,

RÉGIS BERGER et al.

By:

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Date


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Enclosure - new Abstract